

New Bid Laws In Effect... Includes Towns/Townships!

By Deene Dayton, Legislative Audit

All of the bid laws were repealed in the 2010 legislature. They were replaced with new laws located in SDCL 5-18A, 5-18B and 5-18C.

The new laws establish two levels of bid limits. The lower level of \$25,000 is applicable to purchases of supplies and services. Supplies, in addition to its normal meaning, include equipment (motor graders and other vehicles). Common services that townships engage in are blading, snow removal and gravel hauling.

The upper level bid limit is \$50,000 which is applicable to public improvements. Public improvements are defined as building, altering, repairing, improving or demolishing infrastructure such as roads and buildings. Townships are engaging in a public improvement when they repair washed out roads.

If the invitation for bids is for the construction of a public improvement, each bid shall contain a certified check or cashier's check equal to 5% of the amount of the bid. In lieu of a check, a bid bond of 10% of the amount of the bid may be filed with bid invitations.

For public improvement contracts, SDCL 5-21 requires a performance and payment bond (a second bond requirement) to be filed by the low bidder in the amount of the contract.

Quote vs Bid? What's the Difference? The words "quotes" and "bids" are often used interchangeably, but they do have very different meanings. Bids are sealed invitations and originate from a formalized process that includes two public notices. Bids are awarded to the lowest responsible bidder that meets specs. Quotes on the other hand are obtained without public notice in an informal manner such as by phone, fax or in writing. A township generally awards a quote to the vendor that represents the best interest of the township, which may not be the low quote. Quotes are generally used for purchases under the bid limit.

A standard bid requires two notices in a legal newspaper that has general circulation in the township. The first notice must be 10 calendar days prior to the bid opening. If a greater circulation is desired, the second notice may be in any legal newspaper.

A township may make an emergency procurement without advertising the procurement if rentals are not practicable and there exists a threat to public health, welfare, or safety or for other urgent and compelling reasons. An emergency purchase shall be made with such competition as is practicable under the circumstances. A written explanation of the emergency shall be retained on file.

Please be advised SDCL8-9-3 which has not been repealed and specifically states “**no township board of supervisors may purchase, lease or lease/purchase any road grader or other machinery or tool, the costs of**

which exceeds \$15,000 without the approval of the voters of such townships in the manner provided by law”.

For more assistance in answering bid and surplus property questions-

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